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## County of San Diego

### DEPARTMENT OF PLANNING AND LAND USE

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February 24, 2011

Update No. 86  
2-11

TO: Persons Holding Copies of the San Diego County Zoning Ordinance  
FROM: Department of Planning and Land Use  
RE: AMENDMENT PAGES FOR THE COUNTY ZONING ORDINANCE

Attached are pages containing changes to the San Diego County Zoning Ordinance amended by adoption of Ordinance No. 10118 (N.S.), effective 02-24-11. This Ordinance amendment amends the Medical Marijuana Collective Facilities provisions. These amendment pages are known as POD 10-013, adopted by the Board of Supervisors on January 25, 2011. Included in this update is an Ordinance amendment amending the definition of Adult Bookstore, pursuant to Ordinance No. 9827 (N.S.), effective 3-2-07. This amendment (POD 06-006) was not included in the Zoning Ordinance pages after adoption.

Please substitute these pages in your copy of the Zoning Ordinance by removing the obsolete pages and adding the new pages as follows:

REMOVE	ADD	SECTION CHANGES/DESCRIPTION
Def. A (1 page)	Def. A (1 page)	Amend the term "Adult Bookstore, Adult Novelty Store, Adult Video Store" (pursuant to Ord. No. 9827)
6935 (2 pages)	6935 (2 pages)	Subsections b., d. and h. of the Medical Marijuana Collective Facilities amended

Upon insertion of these pages, we suggest you fill in the space provided for Update No. 86 inside the front cover of your Zoning Ordinance. This will serve as a record that your copy has been updated. If you have any questions regarding this update, please contact Joe Farace at (858) 694-3690.

DEVON MUTO, Chief  
Advance Planning Division  
Department of Planning and Land Use



**Accessory Building:** A portion of a main building or a detached subordinate building located on the same lot as a main building which is devoted exclusively to an accessory use.

**Accessory Living Quarters:** Living quarters, which may include kitchen facilities, within an accessory building or within the primary dwelling for the sole use of persons employed on the premises and not rented or otherwise used as a separate dwelling. (Accessory Living Quarters provisions were repealed by Ord. No. 9982 (N.S.), adopted 4-22-09).

(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)

(Amended by Ord. No. 9982 (N.S.) adopted 4-22-09)

**Accessory Use:** A use customarily incidental and accessory to the principal use of the land or building site, or to a building or other structure located on the same building site as the accessory use.

**Administrative Permit:** A permit which may be granted by the appropriate County officer or body to provide for the accommodation of land uses or structures with special site or design requirements, operational characteristics, or potential adverse effects on surroundings, which are not permitted by right, but which may be approved upon completion of a review process, the making of findings required by ordinance, and where necessary, the imposition of conditions of approval by the permit granting authority. Administrative permits are intended to be utilized in situations where the public welfare does not require a public hearing prior to granting approval for temporary uses or structures, uses and structures having only a minor potential adverse impact on surroundings, or for uses and structures where the public welfare necessitates an expeditious review procedure.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)

**Adult Bookstore, Adult Novelty Store Adult Video Store:** A commercial establishment which has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";
- b. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

As used in this definition, the term "significant or substantial portion" means 25 percent or more.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

(Amended by Ord. No. 8015 (N.S.) adopted 12-4-91)

(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

(Amended by Ord. No. 9827 (N.S.) adopted 1-31-07)

Def. A

**Adult Cabaret:** A nightclub, bar, juice bar, theater, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear in a state of semi-nudity (nudity is prohibited per Chapter 18 of the Code of Regulatory Ordinances); or (b) films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas".

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)  
(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

**Adult Drive-In Theater:** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

**Adult Entertainment:** Any activity which falls within the list of defined terms found at Section 6930 d.

(Added by Ord. No. 8015 (N.S.) adopted 12-4-91)

**Adult Motel:** A motel, hotel, or similar commercial establishment which: (a) offers public accommodations for any form of consideration and which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which regularly advertise the availability of such material by means of a sign visible from the public right of way or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and (b) offers a sleeping room for rent for a period of less time than ten (10) hours.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)  
(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

**Adult Motion Picture Theater:** A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

**Specified Sexual Activities:**

1. Sex acts including intercourse, oral copulation, masturbation, or sodomy; or
2. Excretory functions as part of or in connection with any of the activities set forth in 1.

(Added by Ord No. 5840 (N.S.) adopted 7-30-80)  
(Amended by Ord. No. 7469 (N.S.) adopted 6-12-02)

(Amended by Ord. No. 8015 (N.S.) adopted 12-04-91)  
 (Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

- e. Notwithstanding Section 6852, an adult entertainment establishment which was lawfully established before May 15, 2002 shall be allowed to continue as a nonconforming use for three (3) years. The Adult Entertainment Establishment shall have the right to apply for a six-month extension of this period upon a showing of financial hardship to the Director. In making a decision regarding an extension, the Director shall consider: 1) the availability of alternative locations; 2) the term of the lease; 3) the cost of any improvements that would only be of use to the Adult Business; and 4) the potential for other conforming uses to locate on the site.

Any nonconforming adult entertainment establishment shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

- f. As used in this section, "Establishing an Adult Entertainment Establishment" shall mean:
1. The opening or commencement of any such establishment as a new establishment; or
  2. The conversion of an existing establishment, whether or not an adult entertainment establishment, to any of the adult entertainment establishments defined herein; or
  3. The addition of any of the adult entertainment establishments defined herein to any other existing adult entertainment establishments; or
  4. The relocation of any such establishment.

- g. As used in this section, "Transfer of Ownership or Control" shall mean:
1. The sale, lease or sublease of such establishment; or
  2. The transfer of securities which constitute a controlling interest in such establishment, whether by sale, exchange or similar means; or
  3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of such establishment, except for transfers by bequest or other operation of law upon the death of the person possessing such ownership or control.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)  
 (Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)  
 (Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

- h. Exception to Section 1019. Notwithstanding Section 1019, no application for an Administrative Permit or a building permit for an adult entertainment establishment shall be accepted or approved where the proposed use or facility would violate Section 6930 b.

(Added by Ord. No. 8015 (N.S.) adopted 12-04-91)  
 (Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

## 6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES

- a. **Purpose and Intent.** It is the purpose of this section to implement the Compassionate Use Act of 1996 (Health & Safety Code Section 11362.5) and the Medical Marijuana Program (Health & Safety Code Sections 11362.7 et seq.) by establishing reasonable and uniform zoning regulations of medical marijuana collective facilities which, in combination with licensing requirements contained in the San Diego County Code, will allow qualified patients and primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes, and at the same time protect the public health, safety and welfare of communities, within the unincorporated area of San Diego County. It is the intent of this section that the regulations be utilized to preserve the character of neighborhoods and property values and to deter the spread of crime and prevent problems of blight, deterioration, and public safety which often accompany and are brought about by the operation of medical marijuana collective facilities.
- b. **Definition.** The terms “Qualified Patient”, “Primary Care Giver”, “Medical Marijuana Collective Facility” and “Collective Facility” shall have the meanings given in San Diego County Code Section 21.2502. However, this Zoning Ordinance shall not apply to the following: (1) a Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) a Collective Facility operated by a Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.
- c. **Use Regulations Where Collective Facilities Are Allowed.** A Collective Facility may only be located upon property to which the M50, M52, M54, M56 or M58 Use Regulations apply, and within those areas, the separation restrictions of paragraph d below shall apply.
- d. **Separation Requirements For Collective Facilities.** A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:
  1. 1000 feet from a parcel to which a residential Use Regulation applies;
  2. 1000 feet from a parcel containing a school, playground, park, church, recreation center, or youth center; or
  3. 1000 feet from a parcel on which another Collective Facility has been established.

The distance between a Collective Facility and the parcels containing the uses listed in paragraph d above shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the Collective Facility is located, to the nearest point on a parcel line of the real property on which any portion of the facility, building, or structure in which the above listed use occurs or is located. The distance requirements specified above shall apply whether the use is in the unincorporated area or in an adjacent city.

- e. **Openness of Premises.** A Collective Facility shall be designed and constructed such that no area or portion where marijuana is cultivated or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.
- f. **Operating License Required.** Pursuant to San Diego County Code Section 21.2503, a Medical Marijuana Collective Facility Operating Compliance Certificate is required for the operation of a Collective Facility.
- g. **Premises Requirements.**
  - 1. **Signage.** Exterior signage shall conform to the requirements of Section 6250 et al.
  - 2. **Parking.** A Collective Facility shall conform to the requirements of Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.
  - 3. **Physical Appearance.** The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment or property values within the immediate area.
- h. **Nonconforming Uses.** Notwithstanding Section 6852, a Collective Facility which was lawfully established before August 5, 2009 shall cease operations no later than August 5, 2013. In order for a Collective Facility to be "lawfully" established it must have applied for and obtained a building permit and/or a certificate of occupancy prior to commencing operations. The Collective Facility may apply for one six-month extension of this period. The Director may grant that extension if upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering (1) the availability of alternative complying locations; (2) the term of any applicable lease for the premises and whether it may be modified or terminated; (3) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; and (4) the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

(Added by Ord. No. 10061 (N.S.) adopted 6-30-10)  
(Amended by Ord. No. 10118 (N.S.) adopted 1-25-11)

6940

**6940 TRAILER COACHES OUTSIDE MOBILEHOME PARKS.**

The use of a trailer coach outside a mobilehome park is permitted for the following purposes:

- a. Administrative office, business office, sales office, or living quarters for security personnel upon approval of a Site Plan or its Modification when such office or quarters is incidental to a business or civic use permitted by applicable use or special area regulations requiring a Site Plan. A use permit or its Modification shall be required for such office or quarters if no Site Plan is otherwise required for the use of the property.
- b. Classroom for public or private schools where the trailer coach and use thereof complies with subdivision (b) of Section 39248 of the Education Code.
- c. Dwelling for security personnel on a public or private school site.
- d. Dwelling on a private lot established pursuant to Section 6502.
- e. Housing established pursuant to the Accessory Use Regulations.
- f. Owner-occupied independent mobilehome, one-unit mobilehome park, or single-unit farm employee mobilehome legally established pursuant to the former provisions of Ordinance 1402.
- g. Temporary uses pursuant to Section 6118.
- h. Housing as an accessory use in a County Park or parks operated by a Community Services District or other public agency.

The above mentioned trailer coaches shall comply with the provisions of Chapter 2, of Division 6, Title 5, of the County Code of Regulatory Ordinances relating to trailer coaches.

(Added by Ord. No. 6082 (N.S.) adopted 6-10-81)  
(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)  
(Amended by Ord. No. 6855 (N.S.) adopted 10-10-84)  
(Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)  
(Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)